

## Assembly Bill No. 3434

### CHAPTER 1108

An act to amend Section 832.5 of the Penal Code, relating to peace officers.

[Approved by Governor September 29, 1996. Filed  
with Secretary of State September 30, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 3434, House. Peace officers: personnel files.

Existing law requires each department or agency in this state that employs peace officers to establish a procedure to investigate citizens' complaints against the personnel of these departments or agencies, and to make a written description of the procedure available to the public. Existing law also requires that complaints shall be retained for a period of at least 5 years.

This bill would provide that complaints by members of the public that are determined by the peace officer's employing agency to be frivolous, as defined, shall not be maintained in that officer's general personnel file, as defined. It would also provide, however, that these complaints and any reports or findings relating to these complaints shall be retained in other files that shall be deemed personnel records for purposes of the California Public Records Act and provisions relating to the discovery and disclosure of a peace officer's personnel records. The imposition of these new requirements on local agencies would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 832.5 of the Penal Code is amended to read:

832.5. (a) Each department or agency in this state that employs peace officers shall establish a procedure to investigate citizens' complaints against the personnel of these departments or agencies,



and shall make a written description of the procedure available to the public.

(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years.

(c) Complaints by members of the public that are determined by the peace officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(d) "General personnel file," for purposes of this section, means the file maintained by the agency containing the primary records specific to each officer's employment, including evaluations, assignments, status changes, and imposed discipline.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

